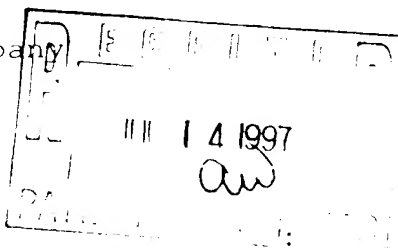


UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

The Dow Chemical Company
Patent Department
Building B-1211
Freeport TX 77541



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JUL - 8 1997

OFFICE OF PETITIONS
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In re Application of
Kazmierski and Jenkins
Application No. 08/785,077
Filed: January 17, 1997
For: Mechanically Frothed and
Chemically Blown Polyurethane Foam :

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 25, 1997, to accept the above-identified application without an oath or declaration from each inventor.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)" and may include an oath or declaration signed by the previously non-signing inventor.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers or proof that the non-signing inventor cannot be reached; (2) an acceptable oath or declaration; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). This petition lacks item (1) above.

This application was filed on January 17, 1997 naming Kazmierski and Jenkins as joint inventors but without an executed oath or Declaration.

On March 24, 1997, a "Notice to File Missing Parts" was mailed which required an executed oath or declaration and a surcharge for its late submission.

In response, on April 25, 1997, a declaration executed by joint inventor Jenkins in compliance with 37 CFR 1.63 and a petition under 37 CFR 1.47 were filed. The petition was accompanied by

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the requisite surcharge and petition fee and sets forth the last known address of the non-signing inventor. Declarations of Carl Poteet and Gene L. Tyler were provided in support of the petition. Mr. Tyler states that Mr. Kazmierski was presented with the declaration, but that he has refused to sign the document.

Mr. Kazmierski cannot sign the declaration for patent application without having reviewed and understood the application that was filed on January 17, 1997. Accordingly, applicant must establish that Mr. Kazmierski was presented with a copy of the application papers before his refusal to sign the declaration can be accepted as evidence that he refused to join the application. See Manual of Patent Examining Procedure, Section 409.03(d). Note especially that the evidence must be submitted by someone with first-hand knowledge of the events.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

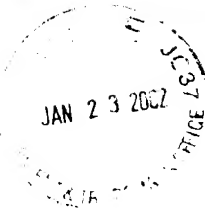
By hand: One Crystal Park, Suite 520
2011 Crystal Drive
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-3159.



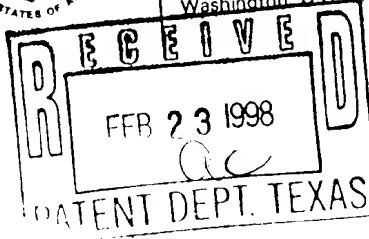
Karin Tyson
Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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Patent Department
Building B-1211
Freeport TX 77541



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In re Application of
Kazmierski and Jenkins
Application No. 08/785,077
Filed: January 17, 1997
For: Mechanically Frothed and
Chemically Blown Polyurethane Foam :

:
: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the papers filed September 3, 1997,
requesting reconsideration of the petition to accept the
above-identified application without an oath or declaration from
each inventor.

The petition is granted.

Petitioner has provided proof that the non-signing inventor was
provided with a copy of the application papers, but that he
refused to join in the filing of the application.

The above-identified application and papers have been reviewed
and found in compliance with 37 CFR 1.47(a). This application is
hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of
this application's filing to the non-signing inventor at the
address given in the Declaration. Notice of the filing of this
application will also be published in the Official Gazette.

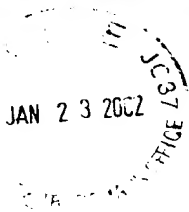
Telephone inquiries related to this decision should be directed
to the undersigned at (703) 306-3159.

Karin Tyson
Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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UNITED STATES DEPARTMENT OF COMMERCE
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Washington, D.C. 20231

Daniel W. Kazmierski
766 Tibbs Bridge Road
Chatsworth GA 30705

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In re Application of
Kazmierski and Jenkins
Application No. 08/785,077
Filed: January 17, 1997

OFFICE OF PETITIONS
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For: Mechanically Frothed and Chemically Blown Polyurethane Foam

Dear Mr. Kazmierski:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-9285.

Karin Tyson
Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

The Dow Chemical Company
Patent Department
Building B-1211
Freeport TX 77541

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08/785,077

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Daniel W. Kazmierski & Randall C. Jenkins

Serial No.: 08/785,077

Filed: January 17, 1997

For: MECHANICALLY FROTHED AND CHEMICALLY BLOWN
POLYURETHANE FOAM

I HEREBY CERTIFY THAT THIS
CORRESPONDENCE IS BEING DEPOSITED
WITH THE UNITED STATES POSTAL SERVICE
AS FIRST CLASS MAIL WITH SUFFICIENT
POSTAGE IN AN ENVELOPE ADDRESSED TO:
ASSISTANT COMMISSIONER FOR PATENTS,
WASHINGTON, DC 20231. ON:

August 28, 1997

DATE OF DEPOSIT

Nancy F. Hobbs

PRINT OR TYPE NAME OF PERSON SIGNING

CERTIFICATE

SIGNATURE OF PERSON SIGNING

CERTIFICATE

DATE OF SIGNATURE

Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

Sir:

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R.
§1.47(a); INVENTOR UNAVAILABLE OR REFUSES TO EXECUTE
APPLICATION

This is a request for reconsideration of the
decision to dismiss of the petition under 37 CFR 1.47(a),
filed April 25, 1997. The petition was filed to request
that the application be accepted without an oath or
declaration from one of the named inventors. The
statements submitted by Carl Poteet and Gene Tyler in the
original petition were not deemed sufficient to establish

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that Mr. Kazmierski was presented with a copy of the application papers, which he did not sign.

In order to establish that Mr. Kazmierski was presented with a copy of the application papers, the declaration of Randall C. Jenkins is attached herewith. Mr. Jenkins statement should establish the facts sufficiently to show that Mr. Kazmierski was presented with the papers but refused to sign.

In order to preserve your petitioner's rights, the granting of this petition is necessary and is in order. Favorable action and granting of this petition is respectfully requested.

Respectfully submitted,
THE DOW CHEMICAL COMPANY



Kevin S. Dobson

Registration No. 40,296

Phone: 409-238-9041

2301 Brazosport Blvd.
Freeport, TX 77541

KSD/nfh